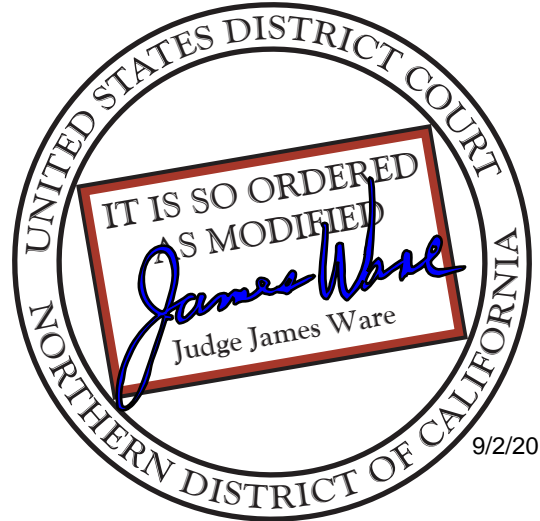


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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BRICE YINGLING D/B/A ALAMO  
AUTOSPORTS AND ANDY SCOTT,

Plaintiffs,

v.

EBAY INC.,

Defendant.

Case No. C 09 01733 JW (PVT)

**RENEWED STIPULATION AND ~~PROPOSED~~ ORDER FOR STAY IN LITIGATION**

Judge: Hon. James Ware

Trial Date: Not yet set

1 Plaintiffs Brice Yingling and Andy Scott (“Plaintiffs”) and Defendant eBay Inc. (“eBay”),  
 2 by and through their respective counsel herein, hereby stipulate and agree as follows:

### 3 **RECITALS**

4 WHEREAS, on July 16, 2010, the Court ordered that a class be certified in this matter;

5 WHEREAS, on July 30, 2010, eBay filed a petition under Federal Rule of Civil Procedure  
 6 23(f) requesting that the Ninth Circuit Court of Appeals accept an interlocutory appeal of the  
 7 Court’s class certification decision;

8 WHEREAS, eBay’s Rule 23(f) petition is currently pending before the United States  
 9 Court of Appeals for the Ninth Circuit and has not yet been ruled upon;

10 WHEREAS, Plaintiffs and eBay have agreed to participate in a mediation of this  
 11 litigation;

12 WHEREAS, on August 20, 2010, the Court denied the parties’ prior stipulation and  
 13 proposed order for stay in litigation without prejudice to renew, provided the renewed stipulation  
 14 clearly sets forth sufficient information regarding the mediation, including, among other things,  
 15 who will be mediating the litigation and when the mediation is scheduled;

16 WHEREAS, the parties have engaged the Hon. Layn R. Phillips with Irell & Manella LLP  
 17 as their mediator;

18 WHEREAS, the mediation is scheduled to take place on November 1, 2010, the first  
 19 available date, and the parties are engaged in good faith efforts to set an appropriate briefing  
 20 schedule;

21 WHEREAS, Plaintiffs and eBay further agree that both parties would incur needless  
 22 burden and expense by proceeding with this litigation prior to the resolution of the pending Rule  
 23 23(f) petition and the mediation;

24 WHEREAS, Plaintiff and Defendant have agreed to a temporary stay of proceedings in  
 25 light of the foregoing.

### 26 **STIPULATION**

27 IT IS HEREBY STIPULATED AND AGREED, by and between the parties that the  
 28 preparation and distribution of any class notice shall be temporarily stayed until the later of (a)

the Ninth Circuit's order on eBay's Rule 23(f) petition, and, if granted, completion of proceedings related to the appeal; and (b) completion of the mediation between the parties. The parties further agree to stay discovery until the completion of mediation between the parties. This Stipulation does not preclude limited discovery as needed for the specific purposes of the parties' mediation, to be further negotiated and agreed among the parties in good faith.

Dated: August 27, 2010

FIGARI & DAVENPORT, LLP  
KEITH R. VERGES  
RAYMOND E. WALKER

/s/

Keith Verges

Attorneys for Plaintiffs  
Brice Yingling and Andy Scott

Dated: August 27, 2010

COOLEY LLP  
MICHAEL G. RHODES (116127)  
WHITTY SOMVICHIAN (194463)

/s/

Whitty Somvichian

Attorneys for Defendant  
eBay Inc.

**FILER'S ATTESTATION**

*Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, Whitty Somvichian hereby attests that concurrence in the filing of this document has been obtained.*

**ORDER**

IT IS HEREBY ORDERED that the parties need not submit a proposal regarding class notice until the later of (a) the Ninth Circuit's order on eBay's Rule 23(f) petition, and, if granted, completion of the Rule 23(f) appeal proceedings; and (b) completion of mediation between the parties. It is further ORDERED that discovery is stayed until the completion of mediation between the parties. This order is without prejudice to any party's right to seek relief from the court should the parties be unable to reach agreement regarding the scope of discovery needed for mediation or the need for a further stay of discovery pending completion of any Rule 23(f) appeal proceedings.

The parties shall appear for a status conference on **November 15, 2010 at 10:00 AM**. On or before **November 5, 2010**, the parties shall file a joint status statement informing the Court on the status of their settlement efforts.

Dated: September 2, 2010

  
United States District Court